

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS  
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Administrative Office	(2) MEETING DATE 2/10/2015	(3) CONTACT/PHONE Nikki J. Schmidt 805/781-5496	
(4) SUBJECT Submittal of a resolution declaring the intention to establish the San Luis Obispo County Tourism Marketing District (TMD) within the County of San Luis Obispo, levy an assessment on lodging businesses within such district, and fix the time and place of public meetings regarding the establishment of the district. All Districts.			
(5) RECOMMENDED ACTION That the Board consider the resolution of intention to  1. Establish the San Luis Obispo County Tourism Marketing District (TMD), levy an assessment on lodging businesses within such district and fix March 10, 2015 as the time and place of the public meeting and April 7, 2015 as the time and place of the public hearing;  If the Board adopts the resolution of intention, it is recommended that the Board:  2. Direct the County Clerk to mail an executed copy of the notice of proposed assessment, the resolution of intention and protest form to all lodging businesses within the proposed TMD; and 3. Direct the County Clerk to publish notice of the public meeting and public hearing no less than ten (10) days prior to the date of the public meeting.			
(6) FUNDING SOURCE(S) N/A	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? No
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input type="checkbox"/> Hearing (Time Est. ____ ) <input checked="" type="checkbox"/> Board Business (Time Est. <u>30 minutes</u> )			
(11) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A <input type="checkbox"/> 4/5 Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? N/A	(16) AGENDA ITEM HISTORY <input type="checkbox"/> N/A    Date: _____	
(17) ADMINISTRATIVE OFFICE REVIEW Guy Savage			
(18) SUPERVISOR DISTRICT(S) All Districts			

# County of San Luis Obispo



TO: Board of Supervisors

FROM: Nikki J. Schmidt, Administrative Office

DATE: 2/10/2015

SUBJECT: Submittal of a resolution declaring the intention to establish the San Luis Obispo County Tourism Marketing District (TMD) within the County of San Luis Obispo, levy an assessment on lodging businesses within such district, and fix the time and place of public meetings regarding the establishment of the district. All Districts.

## **RECOMMENDATION**

That the Board consider the resolution of intention to

1. Establish the San Luis Obispo County Tourism Marketing District (TMD), levy an assessment on lodging businesses within such district and fix March 10, 2015 as the time and place of the public meeting and April 7, 2015 as the time and place of the public hearing;

If the Board adopts the resolution of intention, it is recommended that the Board:

2. Direct the County Clerk to mail an executed copy of the notice of proposed assessment, the resolution of intention and protest form to all lodging businesses within the proposed TMD; and
3. Direct the County Clerk to publish notice of the public meeting and public hearing no less than ten (10) days prior to the date of the public meeting.

## **DISCUSSION**

### **Background**

In November of 2013, Visit San Luis Obispo County (Visit SLO Co) began the process to form a tourism marketing district in the County by creating a task force of lodging businesses as well as representatives from the cities of Paso Robles, Pismo Beach and San Luis Obispo Business Improvement Districts (BIDs). The genesis for the development of a Tourism Marketing District (TMD) as stated in the Management District Plan (Plan) is to: 1) put more "heads in beds" and to increase the average daily rate charged. This would be done by 1) promoting and establishing San Luis Obispo County as a preferred tourism destination; and 2) by coordinating an effort with the cities and County BIDs to collectively market the County.

The County and every city, with the exception of the City of Grover Beach, currently have tourism BIDs within their jurisdictions. These BIDs were formed under the Streets and Highway Code Section 35600 et seq. – the Property and Business Improvement District Law of 1989 (1989 Law). Visit SLO Co proposed that the new district be formed under the Streets and Highway Code Section 36600 et seq. - the Property and Business Improvement District Law of 1994 (1994 Law). While there are some similarities between the 1989 Law and 1994 Law, there are also several differences. A comparison chart of the two laws is included as Attachment No. 1.

## Management District Plan

The 1994 Law requires the development of a Management District Plan (Plan). The purpose of the Plan is to describe how the proposed district will be structured, managed, funded and what activities will be carried out by and for the district. The TMD Plan is included as Attachment No. 2 to this staff report.

Early in 2014, Visit SLO Co drafted the Plan and began the process of meeting with representatives from the County, cities, individual lodging businesses, and BID boards. In July 2014, the Plan for the proposed San Luis Obispo County Tourism Marketing District was finalized.

According to the Plan, the TMD is “designed to provide specific benefits directly to payers by increasing room night sales. Marketing, sales, promotions and advertising will increase overnight tourism and market payers as tourist, meeting, and event destinations, thereby increasing room night sales.”

The Plan also set out the structure of the governing body of the TMD and names Visit SLO Co as the “owners’ association.” The owners’ association is responsible for managing the funds and implementing programs in accordance with the Plan and as directed by the TMD’s Board of Directors.

### Current Marketing Dollars

As previously stated, the County, along with all the cities, with the exception of the City of Grover Beach, has business improvements districts based on geographical and jurisdictional boundaries. The assessment charged is 2% for the majority of the districts with the exception of Morro Bay and Pismo Beach. The assessments within those jurisdictions are 3% and 1% respectively. Attachment No. 3 provides assessment information by jurisdiction. Tourism assessment collection for the entire County is approximately \$5.9 million. When government funding for Visit SLO Co is added, the total amount of funding available currently for marketing the County is \$6.7 million.

Visit SLO Co identified the need for the County to be competitive with other counties and provided data showing that the total funding available for tourism marketing lags behind some of our competitive counties (Monterey, Napa, Santa Barbara, and Sonoma). Attachment No. 4 and the chart below provide a comparison of marketing dollars between the County and some of our competitive counties. The County’s total current marketing dollars available is slightly above Napa and Sonoma and approximately \$2 million below Monterey County’s available tourism dollars. It should be noted that \$2 million of Monterey County’s funds are generated from the City of Carmel.

	Annual Tourism Marketing Funds
<b>San Luis Obispo County</b> includes Visit SLO Co funding, CBID and all cities BIDs Assessments 1%-3%	\$6,709,174
<b>Monterey County</b> includes the Carmel HID Assessments \$1 - \$2.00	\$8,697,043
<b>Napa County</b> Assessments 2%	\$6,500,000
<b>Santa Barbara County</b> includes the Santa Ynez TBID Assessments \$.05 - \$2.00	\$5,012,823
<b>Sonoma County</b> includes the Sonoma and Healdsburg TIDs Assessments 2%	\$6,560,000

## Assessment

Visit SLO Co has proposed that a 1% assessment be remitted by all lodging businesses that pay Transient Occupancy Tax (TOT) within both the unincorporated and incorporated portions of the County. Lodging businesses are defined as hotels, motels, bed and breakfasts, vacation rentals, and RV Parks. The assessment is proposed to be collected based on the paid rent charged per occupied room per night with consecutive stays of 30 days or more excluded. Visit SLO Co projects approximately \$2.8 million would be collected annually through the TMD.

## Duration

According to the 1994 Law (Section 36622(h)), the maximum number of years the assessment can be levied in the newly formed TMD is five years. At the conclusion of the initial five years, the TMD can be renewed for one additional five year term but the term cannot exceed ten years. The process to renew the TDM for the 2<sup>nd</sup> five years, as well as to re-establish the TDM after ten years, would be the same as the initial formation according Section 36660 of the 1994 Law.

## Petition Process

The first step in the formation of a TMD under the 1994 law is submittal of written petitions signed by lodging business owners who support the formation of the proposed district and who cumulatively pay more than 50% of the assessments proposed to be levied.

Subsequent to the finalization of the Plan, Visit SLO Co began the petition process by working with County staff to distribute the petition. On August 19, 2014, the petition was mailed, along with a return envelope, to each of the lodging business within the County. At that time, County staff requested that signed petitions supporting the formation of the TMD be returned by September 30, 2014. This date was chosen as a method to gauge support in the County for the new TMD.

As any information related to taxable rents that can be tied to any particular business is proprietary, County staff from the Treasurer-Tax Collector's office aided in the development of a process by which the percentage support could be calculated and still maintain the confidentiality of individual lodging businesses taxable rents. Specifically,

- Cities were asked to submit their calendar year 2013 total taxable rents. Total taxable rents was used due to the variance among Transient Occupancy Tax (TOT) rates between the various jurisdictions within the County;
- Cities were emailed the names of the lodging businesses within their jurisdiction who submitted petitions with a request to provide the total 2013 taxable rents paid by those lodging businesses. This information was then used to calculate the percentage of support for the proposed TMD;
- If there was only one (1) petition submitted by a lodging business within a city, it was not used in the overall calculation to preserve the confidentiality of individual lodging businesses' taxable rents.

It is anticipated that this process will be used to calculate the percentage of protest votes.

On October 22, 2014, County staff reported that a total of 93 petitions had been received and 52.23% of lodging business owners who cumulatively would pay more than 50% of the assessment proposed to be levied had supported the formation of the proposed TMD. Two petitions received from lodging businesses within the cities of Arroyo Grande and Morro Bay were not included in the calculation due to the confidential nature of taxable rents (as noted above).

The chart below uses data from October 22, 2014, with the exception of the unincorporated County which reflects data as of December 17, 2014, and provides the percentage of lodging businesses, by jurisdiction, that pay, cumulatively, 50% or more of the proposed assessment and who submitted petitions in support of the formation of the TMD (not including the two petitions discussed above).

Jurisdiction	Percentage Lodging Businesses (based on taxable rents) in support
County (unincorporated)	41.90%
Arroyo Grande	0.00%
Atascadero	73.43%
Grover Beach	0.00%
Morro Bay	44.98%
Paso Robles	75.39%
Pismo Beach	74.93%
San Luis Obispo	70.99%

#### Unincorporated County

As of October 22, 2014, 25 petitions were returned representing 34% of the taxable rents in the unincorporated areas. By December 17, 2014, support from lodging business that represents 42% of taxable rents in the unincorporated area had been received. The 32 lodging businesses represent 3.2% of the 1,003 lodging businesses within the unincorporated area who received petitions.

Twenty-seven of the petitions from the unincorporated area were from lodging businesses currently located within the County's Business Improvement District (CBID). The CBID Advisory Board endorsed the TMD at their May 28, 2014 meeting.

#### Resolution of Consent

Permission by the cities is required for the County to form a district within their jurisdictions (Section 36620.5 of the 1994 Law specifically speaks to this requirement). Typically, cities will pass resolutions of consent. As of January 20<sup>th</sup>, all the cities have passed resolutions of consent.

#### Pending Topics of Discussion

There are several topics that have been discussed throughout the process that should be resolved as the formation of the TMD moves forward. It is assumed that some of these issues will be addressed as part of the contract development with the owners' association.

- As reported above, Visit SLO Co has been named as the "owners' association" in the Plan. It is not clear what the role of Visit SLO Co will be within the new TMD. Will Visit SLO Co as it is structured currently be dissolved and work exclusively for the TMD? If not, how would any conflicts be avoided?
- Clarification of the role of the Visit SLO Co Executive Director. The current director of Visit SLO Co is a contract employee and conducts other business outside of Visit SLO Co. Is it the intent to continue with a contract executive director and if so, how would any conflicts be handled?
- What is going to be the methodology for setting compensation for the owners' association employees?
- What happens to Sunset Savor the Central Coast if the TMD forms?
- What happens to businesses, other than lodging, who are current members of Visit SLO Co?
- What are the specific targeted outcomes of the TMD and how will they be measured.

#### Options

The options before the Board today are:

1. Adopt the resolution of intention which moves the process to the next steps.
2. Decline to adopt the resolution of intention which stops the process from moving forward.

If the formation process moves forward, the Board is restricted to the type of changes it can make to the Plan. According to Section 36624 of the 1994 Law, the Board may, *at the conclusion of the public hearing*:

- Adopt or reduce the proposed assessment (currently proposed to be at 1%).
- Adopt, revise, change, reduce or modify the type or types of improvements and activities to be funded with the revenues from the proposed assessment;
- Make changes in, to, or from the boundaries of the proposed property and business improvement district that will exclude territory that will not benefit from the proposed improvements or activities.

If the Board makes changes to the Plan as described above, those changes shall be reflected in a revised proposed resolution of formation to be considered for adoption at a future meeting.

#### **OTHER AGENCY INVOLVEMENT/IMPACT**

Staff from the Administrative Office, the Auditor Treasurer Tax Collector, Clerk-Recorder's Office and County Counsel has participated in this process. Visit SLO Co proposes to be the private nonprofit owners' association that would administer and implement the activities and programs specified in the Plan. Each city has approved a resolution of consent.

#### **FINANCIAL CONSIDERATIONS**

As discussion above, Visit SLO Co proposes that a 1% assessment would be levied on the paid rent charged per occupied room per night, with consecutive stays of 30 days or more excluded. They projected that \$2.8 million per year for the initial five (5) year term will be collected. In addition, the County and cities may charge an administrative fee – up to 2% of the amount collected – to cover any costs associated with administering the TMD in their respective jurisdictions.

#### **RESULTS**

The County will not be establishing any performance criteria beyond the legal contractual obligation to expend the funds for identified purposes. The onus would be on the contracted owners' association to meet the expectations included in the Plan as well as those of the lodging business owners collecting the assessment. It is expected the owners' association Board of Directors will develop measures that will track the success of the management district plan programs.

#### **ATTACHMENTS**

1. Proposed TMD Boundary
2. Resolution of Intention
3. Notice of Proposed meeting/hearing
4. Sequence of Events
5. 1994 Law
6. Attachment No. 1 - 1989 Law and 1994 Law comparison
7. Attachment No. 2 - Management District Plan
8. Resolutions of Consent from cities
9. Attachment No. 3 - Assessments by jurisdiction
10. Attachment No. 4 - Competitive counties assessment comparison
11. Copy of petition and cover letter distributed August 19, 2014